

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
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Calling Party Pays Service Option )  
In the Commercial Mobile Radio Service )  
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CTIA Petition for Expedited Consideration )  
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WT Docket No. 97-207

JOINT REPLY COMMENTS OF THE  
ASSOCIATION OF COLLEGE AND  
UNIVERSITY TELECOMMUNICATIONS ADMINISTRATORS  
AND  
THE AD HOC TELECOMMUNICATION USERS COMMITTEE

Kevin DiLallo  
Justin Castillo  
Levine, Blaszak, Block &  
Boothby, LLP  
2001 L Street, NW, Suite 900  
Washington, D.C. 20036  
(202) 857-2550

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Their Attorneys

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## SUMMARY

The record has not yet been sufficiently developed to permit resolution of CTIA's "Calling Party Pays" ("CPP") proposal. Without fuller consideration of safeguards to prevent the adverse effects of CPP on non-wireless consumers, issuing a Notice of Proposed Rulemaking ("NPRM") would be premature.

There has not been adequate discussion of the consumer notification questions that any viable CPP plan will require. Notification of CPP charges is especially important for organizations that use Private Branch Exchanges ("PBXs"). The Commission should not proceed with an NPRM for CPP until there are viable failsafe mechanisms for notifying all callers, including PBX users, of the imposition and amount of CPP charges and providing them with a method of terminating CPP calls without charge. Present CPP proposals lack these criteria.

All of the existing proposals are currently impossible or impractical for PBX users to implement. The only practical solution is to assign telephone numbers earmarked for CPP use to a special Service Access Code to enable PBXs to identify, screen, block, and/or otherwise process CPP calls. Wireless carriers may oppose this, however, because they seem to prefer that CPP numbers be indistinguishable from landline telephone numbers.

The Commission should refrain from issuing a Notice of Proposed Rulemaking in this docket, and continue to develop the record further to determine whether issuance of an NPRM on the CPP proposal would be appropriate.

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The Association of College and University Telecommunications Administrators ("ACUTA") and The Ad Hoc Telecommunications Users Committee ("Ad Hoc") submit this joint Reply to the comments filed in response to the Commission's Notice of Inquiry ("NOI")<sup>1</sup> in the above-captioned matter. In this Reply, ACUTA and Ad Hoc address solely the consumer protection issues raised by the NOI and the Petition for Expedited Consideration ("Petition") filed by the Cellular Telecommunications Industry Association ("CTIA").

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<sup>1</sup> *Calling Party Pays Service Option in the Commercial Mobile Radio Service*, WT Dkt. No. 97-207, Notice of Inquiry, FCC 97-341, 12 FCC Rcd 17693 (released Oct. 23, 1997).

## INTRODUCTION

The record has not yet been sufficiently developed to permit resolution of the many complex issues raised by CTIA's "Calling Party Pays" ("CPP") proposal, a proposal apparently calculated to benefit only members of the wireless industry and their subscribers. Thus, it would be premature to propose rules and issue a Notice of Proposed Rulemaking ("NPRM") at this point, and we urge the Commission to develop the record further to ensure full consideration and discussion of the many potentially adverse effects of CPP on non-wireless consumers.

ACUTA is an international, non-profit educational association serving nearly 800 colleges and universities in the application of telecommunications technology to higher education. ACUTA also has 175 corporate affiliate members, representing all categories of vendors serving the educational market. Due to the nature of college and university telecommunications systems, which serve thousands of faculty, staff, and students on each campus through private branch exchange ("PBX") or other telecommunications systems, the implementation of the CPP Service Option as currently proposed would result in considerable potential for unrecoverable financial losses.

The Ad Hoc Telecommunications Users Committee represents some of the country's largest corporate users of basic telecommunications services, collectively employing thousands of workers at locations all over the world.

Because of the nature of their internal corporate telecommunications systems, the members of Ad Hoc could risk incurring immense financial losses for calls to wireless telephone numbers if the CPP Service Option is adopted at this juncture.

## DISCUSSION

The CPP proposal described in the NOI is unique in the world of telecommunications, as it posits a situation where wireless service would be the only service in which the party who pays for a call would be forced to incur -- sight unseen -- charges imposed by a carrier selected by the other party.<sup>2</sup> Thus, the CPP proposal constitutes a kind of telephone Russian roulette, where a calling party has no way of knowing -- or even of ascertaining -- applicable charges for wireless airtime and other service components until the bill arrives.<sup>3</sup> Further, under the CPP

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<sup>2</sup> The closest parallel to such an arrangement is the routing of calls placed from public telephones and hotel trunks to the carrier and/or operator service provider selected by the owner of the premises from which the calls are placed. Even in such cases, however, individual callers will generally know that they will be subject to charges by service providers they did not select, and the callers can override the presubscribed carrier by dialing a 10XXX access code or an 800/888 number. Collect calls are another instance in which the party responsible for payment is not the party that selects the service provider, but in such cases the former party is informed that a charge will apply and is given a chance to decline the call before any charge is incurred -- unlike the CPP proposal.

<sup>3</sup> Prices for wireless services are not regulated at either the state or federal level, and carriers may not be required to file tariffs covering CPP charges with any regulatory agency. Accordingly, not only would the calling party, who will be responsible for payment, not know the specific charges that will apply to a given call, but that information may not even be ascertainable without extensive effort and research. To determine the CPP charge, the caller would first have to know that the called number is in fact a wireless CPP telephone. He would then need to identify the wireless carrier to which that number was assigned and determine how to contact that carrier. Finally, the caller would have to contact the terminating wireless carrier to inquire about any applicable CPP charges.

proposal, the hundreds of thousands of users with PBXs, including the members of ACUTA and Ad Hoc, would be forced to pay for CPP calls placed from their premises to wireless numbers, because those users lack any reliable way to block CPP calls.

#### I. ISSUANCE OF AN NPRM WOULD BE PREMATURE.

The wireless industry is understandably enthusiastic about CPP<sup>4</sup> because it solves the problem of their subscribers' perception that wireless rates are too high.<sup>5</sup> The CPP Service Option has the dual appeal to the wireless industry of providing commercial mobile radio service ("CMRS") carriers with a huge new source of revenue -- landline users -- for incoming wireless calls while enabling wireless subscribers to make more outbound calls for the same monthly bill.

The financial interest of the CMRS carriers in CPP suggests, however, that claims regarding CPP's public policy benefits should be scrutinized closely.<sup>6</sup> As one

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<sup>4</sup> See, e.g., CTIA Comments in WT Dkt. No. 97-207 (filed May 8, 1998) at 2; Comments of Petroleum Communications, Inc., in WT Dkt. No. 97-207 (filed May 8, 1998) ("PCI Comments") at 2; Comments of Motorola, Inc. in WT Dkt. No. 97-207 (filed May 8, 1998) ("Motorola Comments") at 2.

<sup>5</sup> See Comments of the Rural Telecommunications Group in WT Dkt. No. 97-207 (filed May 8, 1998) at 2-3.

<sup>6</sup> Indeed, it does not take a close reading of the wireless carriers' comments to discover that the consumer benefits such carriers foresee accrue to *wireless* consumers, *not* consumers in the aggregate. For example, one commenter suggested that wireline consumers would actually benefit from CPP because wireless subscribers would be more likely to disclose their wireless phone numbers more freely, bestowing the dubious privilege on wireline customers of calling wireless numbers at their own expense. Comments of Sprint Spectrum L.P., d/b/a Sprint PCS in WT Dkt. No. 97-207 (filed May 8, 1998) ("Sprint Comments") at 5; see also Comments of Vanguard Cellular Systems, Inc. in WT Dkt. No. 97-207 (filed May 8, 1998) at 2 ("CPP will provide [wireless] consumers more predictability and control over what they spend").

commenter has observed, CPP is really an issue for landline, not wireless, customers.<sup>7</sup> Given the one-sided nature of the CPP discussion to date, the Commission should proceed cautiously. The considerable uncertainty, confusion, and expense that an ill-considered or hasty CPP scheme could cause among wireline subscribers would easily nullify any conceivable benefits of CPP.<sup>8</sup> There needs to be a thorough discussion of both the problems faced by the CMRS industry and the possible solutions. For example, the CMRS industry has stated that wireless service is not a competitive alternative to landline service due to charges for incoming calls. This begs the policy question of whether regulation should make wireless service more of a competitive alternative to landline service. Moreover, even if one accepts the CMRS industry's definition of the problem, CPP may not be the best answer. Instead, the solution could be as easy as lowering and simplifying the Byzantine rate structure that characterizes wireless service today.

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<sup>7</sup> Comments of the Public Utilities Commission of Ohio in WT Dkt. No. 97-207 (filed May 8, 1998) at 3.

<sup>8</sup> The need to protect wireline users in any CPP plan and the potential for a consumer backlash is highlighted by one CMRS carrier's candid admission that

the Commission must recognize that it is *impossible* for CMRS providers to inform callers of the exact charges associated with a CPP call. Because CMRS providers often have different rate plans for different service offerings, it would be virtually impossible for a provider to estimate the cost of each and every call to each and every party. The Commission, therefore, should *not* require that CMRS providers inform callers of the costs associated with each call.

Vanguard Comments at 17; *accord*, Comments of the Rural Cellular Association in WT Dkt. No. 97-207 (filed May 8, 1998) at 2. These comments suggest that the Commission may wish to consider whether any CPP plan should include rate reduction and/or simplification to protect wireline consumers from confusion.



Discussions of CPP have so far been broad and general.<sup>9</sup> The feasibility (not to mention the advisability) of CPP in the United States turns on a host of complex issues that have received little or no scrutiny to date.<sup>10</sup> Until the record is developed with respect to key technical and policy questions, such as whether a problem exists, and, if so, whether CPP is the best solution, proceeding with a Notice of Proposed Rulemaking ("NPRM") would be premature at best.

II. PBX USERS MUST HAVE AN EFFECTIVE MECHANISM TO IDENTIFY, SCREEN, AND BLOCK CPP CALLS.

One important issue that has not yet been adequately addressed, but that is of great importance to ACUTA and Ad Hoc, concerns CPP and consumer notification for organizations (e.g., colleges, universities, and large corporations) that use PBXs. The wireless industry, in its enthusiasm to proceed with a CPP NPRM, has perfunctorily acknowledged the issue of consumer notification, but assumed that the FCC can work something out.<sup>11</sup> The case of PBXs illustrates how the wireless industry has overlooked and oversimplified CPP's implications on wireline consumers.

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<sup>9</sup> For example, Vanguard Cellular Systems Inc. has stated that "the international CPP model" demonstrates "the benefits of the CPP service option," without discussing the details of any such model. Vanguard Comments at 7.

<sup>10</sup> See Comments of BellSouth Corp. in WT Dkt. No. 97-207 (filed May 8, 1998) at 1-4.

<sup>11</sup> See, e.g., Sprint Comments at 7.

An effective process for informing callers of the imposition and amount of CPP charges should be the *sine qua non* for the approval of any rational CPP mechanism. The Commission should reject CPP proposals that lack failsafe mechanisms for notifying callers of the imposition and amount of CPP charges, and for providing callers with an opportunity to terminate calls before incurring any charge. No such prospect exists at this time for PBX users.

A. The Existing CPP Proposals Fail To Protect PBX Users.

The NOI invited comment on ways of notifying callers of the applicability and nature of any charges for CPP calls before the completion of the call connection process.<sup>12</sup> One of the possibilities discussed in the NOI is the use of an intercept-type of recorded message to enable the caller either to hang up before any charges accrue or to enter one or more digits on the touch tone pad to agree to pay the applicable fees.<sup>13</sup> Such an arrangement would be roughly analogous to the manner in which collect calls are delivered to a called party, according to industry commenters.

This scheme might suffice for calls originated from single-line residential and business lines, but it would be useless in most business and campus settings because calls are often routed through a PBX or similar business telephone system

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<sup>12</sup> NOI at ¶ 21.

<sup>13</sup> *Id.* at ¶ 20.

employing call management procedures. Unless the PBX switch can readily identify a call as involving CPP charges, it will be unable to screen, block, or account for charges if the call is completed. Further, PBX switches cannot recognize and respond to call intercepts.

Alternatively, the Commission has suggested transmission of a standard tone to identify calls subject to CPP charges.<sup>14</sup> Such tones could theoretically be recognized by a PBX, which would then disconnect or afford some other special treatment to calls to CPP numbers. Such an arrangement is not presently viable, however, because the vast majority of existing PBXs lack either the hardware or software necessary to interpret and process such tones so as to enable CPP blocking.

Yet another proposed alternative is for the PBX customer (*i.e.*, the corporate or institutional subscriber) to permit completion of CPP calls, but record the call details, including the associated charges, using Station Message Detail Recording ("SMDR") functions, to assign the CPP charges to the appropriate calling PBX station line. To implement this proposal, however, a PBX customer would have to acquire and install the necessary tone detection hardware and purchase SMDR software (which may not even exist yet) capable of first associating the CPP tone

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<sup>14</sup>

*Id.*

with the called number and then capturing and recording this information for charge-back purposes.

Next, to provide accurate charge-back information, the SMDR system would need complete CPP rate information, which, as noted previously, is not easily available and will vary from carrier to carrier. Although it is theoretically possible for such pricing information to be transmitted back to the originating party via multifrequency ("MF") tones or digital signals, the protocols for such transmissions have not been established, nor have the means been developed for capturing and utilizing this information in the calling party's PBX.

The NOI observed that state commissions have required a number of techniques other than call intercept messages, such as the use of special NXX codes or a 1+ prefix, to identify called numbers subject to CPP charges.<sup>15</sup> The use of unique NXX codes for CPP CMRS telephones is necessary under local call rating protocols to permit the originating carrier's call detail recording equipment to recognize the special call rating requirements and properly bill the originating customer. As the Commission has observed, this technique is currently being used in Europe to identify wireless telephones.<sup>16</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

Such an approach in the United States would require earmarking one or more NXX codes for uniform assignment in *all* numbering plan areas ("NPAs") – akin to uniform Feature Group B (*i.e.*, 950-XXXX) or directory assistance (555-1212) numbering sequences; otherwise, consumers would be required to memorize and/or program their PBXs to recognize different CPP NXX assignments for every NPA in the country. However attractive the NXX approach may be in theory, it is simply unworkable as a practical matter because it is unlikely that an adequate supply of the same unassigned NXX codes is available in all NPAs.

In the past, the "1+" prefix was used exclusively as a toll identification digit, that is, local calls would never require a 1+ prefix, and toll calls would always require the use of 1+. Now, however, in many (perhaps most) jurisdictions, the 1+ prefix identifies a call involving a different area code, rather than a toll charge. Thus, dialing 1+ is required for all calls between NPAs, whether local or toll, and in many states the 1+ prefix is not used to identify toll calls placed to points within the calling party's home area code. Consequently, there is no practical way that the 1+ prefix could be used to identify CPP calls.

Even if 1+ dialing could be consistently applied to CPP calls, those calls would still escape detection by the calling party. Callers could not distinguish between ordinary toll calls and CPP calls -- a critical distinction -- since CPP calls

involve not only the toll transport charge but a terminating air time charge imposed by a CMRS carrier unknown and unselected by the calling party.

Additional problems arise in the typical business or campus PBX setting. If unique NXX codes are used to identify CPP telephone numbers, PBXs would have to perform a 6-digit (*i.e.*, NPA-NXX) database translation for each dialed number to ascertain whether the call is subject to any special rate treatment such as CPP charges. Many PBXs lack such a capability. And even where a PBX possesses the requisite functionality, the PBX user will still need to establish and maintain the accuracy of a table containing all NPA-NXX codes assigned for CPP use throughout the United States. This would force individual PBX users to subscribe to the necessary databases (*e.g.*, Bellcore's Local Exchange Routing Guide, at \$9,000 per year) and/or to arrange for the necessary PBX table updates to be entered whenever a new CPP code is introduced into service. With hundreds of thousands of PBXs currently in use throughout the country, the staggering cost of the endeavor would exceed any pecuniary benefits to CMRS providers and their customers from adopting such an approach to CPP.

B. CPP Numbers Should Be Assigned to Special Service Access Codes.

A practical alternative to the intermixing of CPP numbers into conventional geographic NPAs would be to assign telephone numbers earmarked for CPP use to

a special Service Access Code ("SAC"). Such an assignment would enable PBXs to identify, screen, block, and/or otherwise process CPP calls.

Wireless carriers might prefer that CPP numbers be integrated into the geographic NPAs so as to be indistinguishable from landline telephone numbers, but there is an overriding, compelling public interest in ensuring that consumers be readily able to identify numbers for which special charges will apply. If all CPP numbers are designated uniformly through a SAC, callers could more easily identify calls to such numbers, while PBX users could screen and block such calls without unreasonable burdens. A single CPP SAC would have the capacity for up to 10 million CPP telephone numbers,<sup>17</sup> which should be more than sufficient to meet demand for years to come. If necessary, additional SACs could be defined, as they have been for toll-free calling services.

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<sup>17</sup> Since all calls to the CPP SAC would be dialed on a 10-/11-digit basis, the 0XX and 1XX prefixes would be available for assignment as working numbers.

The compelling social benefits of service-specific SAC-type numbering of CPP wireless telephones override any private interest that CMRS carriers may have in the use of conventional geographic NPA numbers. As long as calls to CPP numbers involve special charges that do not apply to calls placed to wireline telephones, ACUTA and the Ad Hoc Committee urge the Commission to protect consumers by requiring simple identification of such numbers.

### **CONCLUSION**

For the foregoing reasons, the Commission should reject CTIA's Petition for Expedited Consideration, refrain from issuing a Notice of Proposed Rulemaking in this docket, and continue to develop the record further to determine whether issuance of an NPRM on the Calling Party Pays proposal would be appropriate.

Respectfully submitted,

**ASSOCIATION OF COLLEGE AND UNIVERSITY  
TELECOMMUNICATIONS ADMINISTRATORS**

**AD HOC TELECOMMUNICATIONS USERS  
COMMITTEE**

By: Kevin DiLallo

Kevin DiLallo  
Justin Castillo  
Levine, Blaszak, Block & Boothby, LLP  
2001 L Street, NW., Suite 900  
Washington, D.C. 20036  
(202) 857-255  
Their Attorneys

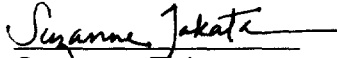
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### Certificate of Service

I, Suzanne Takata, hereby certify that a true and correct copy of the preceding Joint Reply Comments of the Association of College and University Telecommunications Administrators and the Ad Hoc Telecommunications Users Committee in WT Docket No. 97-207 (the CTIA Petition for Expedited Consideration) was served this 8<sup>th</sup> day of June, 1998 via hand delivery upon the following party:

ITS  
1919 M Street  
Washington, DC 20054

  
Suzanne Takata

June 8, 1998